

The Politicization of Prosecutors: A Tribute to the Work of Bennett Gershman

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I. INTRODUCTION

He warned us. For decades, Professor Bennett Gershman has sent a strong and consistent message that politics and prosecutors do not mix.¹ And, of course, he was right. Recent events have demonstrated the acute danger of prosecutors becoming immersed in the political world.

This article will focus on just three examples. There are many more that could be selected. In fact, the Trump administration's call to a recused Attorney General to shut down the investigation of Special Prosecutor Robert Mueller, or fire his Deputy Attorney Rod Rosenstein, can be seen as an ongoing debate about how much political influence there should be over the Department of Justice and any Special Prosecutors appointed for politically charged cases.² However, three past situations should be more than enough to sound the alarm and provide key insights into why the current situation must be taken so seriously. If a prosecutor wants to be true to the cause of justice, principle must come before politics. Politics focuses on how individuals or groups seek to control the agenda and policies of the government.³ By contrast, justice focuses on the fair and accurate result in individual investigations and cases.⁴

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¹ See, e.g., Bennett Gershman, *The Prosecutor's Duty of Silence*, 79 ALB. L. REV. 1183 *passim* (2016).

² The obvious nature of this political battle and how it imperils the role of federal prosecutors was recently highlighted by Deputy Attorney General Rod Rosenstein in his speech to the annual meeting of the American Bar Association. Rosenstein stated, "The Department of Justice, in which I serve, must never be a partisan actor. Our agents and prosecutors are obliged to make neutral decisions, preserve personal privacy, protect national security and insulate investigations from the reality, or the appearance, of political interference." Lyle Moran, *Rosenstein Says Lawyers Are Guardians of the Rule of Law*, L.A. DAILY J. 1 (Aug. 3, 2018).

³ *Politics*, OXFORD DICTIONARIES, <https://en.oxforddictionaries.com/definition/politics> ("The activities associated with the governance of a country or area, especially the debate between parties having power.").

⁴ See Bruce A. Green, *Why Should Prosecutors Seek Justice*, 26 FORD. URB. L.J. 607, 608, 615 (1999).

Individuals who have proudly served in the Department of Justice have recently decried the attempt by President Trump to undermine the rule of law by trying to influence the investigation in individual cases. For example, former assistant FBI Director and U.S. Attorney for Nevada Greg Brower recently stated:

[I]t's inevitable that if you serve in the Department of Justice or the FBI, it's inevitable that you would have concern with respect to the almost...regular attacks on the integrity of the department and the FBI from the president over the last several months. It's simply an unprecedented and untenable reality that is...harmful to the department and the rule of law.⁵

While President Trump has taken the politicization of the Justice Department to a new level, the concern over prosecutors focusing more on how their decisions might serve political agendas, instead of the fair result in a particular case, has been intensifying over the last decade.

This article cannot tackle all instances of the politicization of prosecutors, but it offers three examples: (1) the U.S. Attorney firing scandal of 2007; (2) Sally Yates' efforts to prevent the politicization of the Department of Justice under President Trump; and (3) the new era of prosecutors who use social media to embrace political views that would never be tolerated if they were expressed in the halls of justice.

In 2008, Professor Gershman gave a lecture on "The Most Dangerous Power of the Prosecutor." In it, he identified the "politicization of the rule of law" as a key culprit in a pattern of conduct that would undermine U.S. criminal jurisprudence.⁶ Of course, there are several ways that the rule of law can be politicized. Judges can themselves become politicized. However, another even more prevalent phenomenon is the politicization of prosecutors. Whether federally appointed or locally elected, prosecutors constantly face political pressures. How they react to these political pressures can have a critical impact on the decisions they make.

Today, there are those who actually embrace a more political role for prosecutors. In his recent article, Professor Scott Ingram argues in favor of reconceiving the federal prosecutor's role as the "government's attorney," not the people's attorney.⁷ He argues in favor of detaching prosecutors from the obligation to do justice so that they can dedicate themselves to marginal cases supported by the

⁵ *Morning Edition: If Rosenstein Is Fired, His Departure Would Impact Mueller Probe*, (NPR radio broadcast Sept. 25, 2018, 5:07 AM), <https://www.npr.org/2018/09/25/651373763/if-rostein-is-fired-his-departure-would-impact-mueller-probe> (interview with Greg Brower, ex-head of the FBI'S Office of Congressional Affairs.).

⁶ Bennett L. Gershman, *The Most Dangerous Power of the Prosecutor*, 29 PACE L. REV. 1, 7 (2008).

⁷ Scott Ingram, *Representing the United States Government: Reconceiving the Federal Prosecutor's Role Through a Historical Lens*, 31 NOTRE DAME J. LAW, ETHICS & PUB. POLICY 293, 293-94 (Nov. 2, 2017).

administration.⁸ For him, “prosecutors represent the government that hired them, just like any other attorney.”⁹

Long ago, however, Professor Gershman correctly recognized that prosecutors are not like any other attorney.¹⁰ Rather, prosecutors have vastly more power, are more insulated from judicial control, and have immunity from suit for most of their actions that other lawyers do not enjoy.¹¹ As such, it is critical that they are more than another political voice of government. Their ability to fulfill Justice Robert Jackson’s vision of “doing justice” and serving the law,¹² rather than factions, depends on them not becoming overly politicized.

Thus, this article assumes that there is more mischief to be done by prosecutors who want to be a voice for political factions. Part of this assumption is based on the problems that are created when prosecutors overtly join the political fray. We must learn from these previous incidents and prevent them in the future. We must learn from the lessons that Professor Gershman has been trying to teach us over the years.

II. POLITICAL THREATS TO PROSECUTORIAL INDEPENDENCE: THE 2007 U.S. ATTORNEY FIRING SCANDAL

In 2006 the George W. Bush Administration made a political power play against United States Attorneys across the country.¹³ Attorney General Alberto Gonzales asked for nine U.S. Attorneys to resign. Though the Attorney General dubbed the firings “routine personnel decisions,”¹⁴ the circumstances suggested otherwise. Each of the U.S. Attorneys was considered to be “qualified and demonstrably capable. . . .”¹⁵ In fact, many of the appointed successors were notably less experienced or qualified than their predecessors.¹⁶ This stark downgrade in

⁸ *Id.* at 293.

⁹ *Id.* at 338.

¹⁰ See Bennett L. Gershman, *The New Prosecutors*, 53 U. PITT. L. REV. 393, 393 (1992).

¹¹ *Id.*

¹² See Robert H. Jackson, *The Federal Prosecutor*, 31 J. AM. INST. CRIM. L. & CRIMINOLOGY 3 (1940).

¹³ See Bruce A. Green & Fred C. Zacharias, “*The U.S. Attorneys Scandal*” and the Allocation of Prosecutorial Power, 69 OHIO ST. L.J. 187, 188 (2008); See also Laurie L. Levenson, *Live and Learn: Depoliticizing the Interim Appointments of U.S. Attorneys*, 31 SEATTLE U. L. REV. 297, 298 (2008).

¹⁴ Dan Eggen, *Prosecutor Firings Not Political, Gonzales Says*, WASH. POST, Jan 19, 2007 AT A2.

¹⁵ *Preserving Prosecutorial Independence: Is the Department Of Justice Politicizing the Hiring and Firing of U.S. Attorneys?: Hearing Before the S. Comm. on the Judiciary*, 110th Cong. (2007) (Statement of Prof. Laurie Levenson on the Firing of U.S. Attorneys).

¹⁶ See, e.g., Levenson, *supra* note 13, at 298 (“Interim U.S. Attorneys were appointed who generally lacked the prosecutorial experience or credentials of the seasoned U.S. Attorneys they replaced.”).

qualifications led many commentators to surmise that the removals were based upon political objectives rather than the proper exercise of independent legal judgment.¹⁷ In support of that notion was the underlying commonality between all nine subjects of “The U.S. Attorneys Scandal”: their exercise of power as United States attorneys was inconsistent with the agenda set forth by the President and the Attorney General.¹⁸

Until then, federal prosecutors traditionally had been insulated from political pressures in doing their work. Recognizing that the heads of federal prosecutorial offices have the power to “wiretap people’s homes, seize property . . . put people in jail for life . . . destroy businesses, and affect the outcomes of elections,”¹⁹ the Senate Judiciary Committee called for an investigation of the firings. Senators of both parties were concerned about what effect politics would have on prosecutors wielding their immense power.²⁰ “The custom had long been that U.S. Attorneys, who were appointed by the president and confirmed by the Senate, submit their resignations only when a new president takes office.”²¹ However, the firing of Republican U.S. Attorneys during a Republican administration raised serious questions about the true motivation for the firings. As it turned out, “[i]deologues in the Bush administration were unhappy with that tradition, and targeted attorneys for various decisions that, in their view, had hurt Republicans.”²² As John McKay, one of the terminated U.S. Attorneys, wrote, the administration “hoped to take advantage of a loophole in the Patriot Act that allowed the attorney general, rather than the president, to appoint interim U.S. attorneys, thereby bypassing Senate confirmation.”²³ The administration was apparently motivated by raw politics and disappointment that the U.S. Attorneys had not done enough to further the administration’s political agenda, including contesting elections in which Republicans lost to Democrats.²⁴

¹⁷ Bruce A. Green & Fred C. Zacharias, “*The U.S. Attorneys Scandal*” and the Allocation of Prosecutorial Power, 69 OHIO ST. L. J. 187, 205 (2008).

¹⁸ See, e.g., *Id.* at 188-89 (“The discharges have led to allegations that DOJ influenced U.S. Attorneys’ Offices to pursue the President’s partisan agenda by encouraging the overzealous pursuit of voting rights cases and government corruption cases against Democrats and by discharging individual U.S. Attorneys who resisted.”).

¹⁹ Editorial, *Why This Scandal Matters*, N.Y. TIMES, May 21, 2007, at A18, <https://www.nytimes.com/2007/05/21/opinion/21mon1.html>.

²⁰ David M. Driesen, *Firing U.S. Attorneys: An Essay*, 60 ADMIN. L. REV. 707, 711 (2008).

²¹ John McKay, Opinion, *The Bush Administration Fired Me from the Justice Department Over Politics*, VOX, May 15, 2017, <http://www.vox.com/the-big-idea/2017/5/15/15641318/us-attorneys-gonzales-bush-trump-justice-rule-of-law-scandal>.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

The use of prosecutions to defeat political opponents is a fundamental threat to democracy.²⁵ If we believe in the “rule of law,” it must apply regardless of who inhabits the White House. For that reason alone, prosecutors must remain apolitical. If not, prosecutors become nothing more than “political pawns.”²⁶ The law no longer governs, but is trumped by the politics of those charged with fairly applying the law. While some, like Professor Ingram, might have little concern about this new trend, it is, as the U.S. Attorneys themselves recognized, contrary to their oath of office. U.S. Attorneys, like many other public officers, take an oath to uphold the Constitution, not the wishes of those in political power.²⁷

In the end, a report by the Inspector General of the Justice Department concluded that “there was significant evidence that political partisan considerations were an important factor” in the firing of the U.S. Attorneys.²⁸ What harm did this political stunt cause? In a short time, great damage was done to the credibility of the U.S. Attorney’s office. First, there were allegations that political enemies were improperly targeted for prosecution.²⁹ Second, less capable prosecutors were hired because of their political leanings.³⁰ Third, politicizing the position sent a dangerous message to those who would choose to serve as federal prosecutors. The focus became their personal, political advancement, not a commitment to upholding their oath of office. Finally, the scandal called into question whether prosecutors should be given the broad discretion traditionally afforded to them.³¹

²⁵ See David M. Driesen, *Firing U.S. Attorneys: An Essay*, 60 ADMIN. L. REV. 707, 711 (2008).

²⁶ See, e.g., Levenson, *supra* note 13, at 301.

²⁷ “I . . . do solemnly swear (or affirm) that I will support and defend the Consitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation reely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.” 5 U.S.C. § 3331 (1966).

²⁸ OFFICE OF THE INSPECTOR GEN., U.S. DEP’T OF JUSTICE, AN INVESTIGATION INTO THE REMOVAL OF NINE U.S. ATTORNEYS IN 2006(2008), <http://www.usdoj.gov/oig/special/s0809a/final.pdf>, cited in Gershman, *supra* note 1, at 6.

²⁹ In one such example, Georgia Thompson, a Wisconsin Democrat, was convicted of “misapplication of federal funds and mail fraud.” Bennett L. Gershman, *The Most Dangerous Power of the Prosecutor*, 29 PACE L. REV. 1, 9 (2008) (citing *United States v. Thompson*, 484 F.3d 877, 878 (7th Cir. 2007)). The prosecution of Georgia Thompson occurred just months before the election and was exploited in advertising against the incumbent Democratic governor. *Id.* at 10. In another case of political prosecution, Don Siegelman was indicted on conspiracy charges. Siegelman, former governor of Alabama, was planning to run again for governor against Republican Bob Riley. Upon later investigation by state attorneys, “[s]erious allegations have been made that Siegelman was targeted for prosecution to further the interests of the Alabama Republican Party.” *Id.* at 12.

³⁰ *Id.* at 8.

³¹ See Laurie L. Levenson, *Live and Learn: Depoliticizing the Interim Appointments of U.S. Attorneys*, 31 SEATTLE U. L. REV. 297, 311 (2008).

Playing politics with prosecutions is the opposite of “the fair-minded pursuit of justice.”³² It was also an attack on fundamental principles of our government. Ensuring independent and fair prosecutors is not a transitory notion.³³ Almost eighty years ago, Justice Jackson famously said, “The prosecutor has more control over life, liberty, and reputation than any other person in America.”³⁴ “In times of fear or hysteria political, racial, religious, social, and economic groups, often from the best of motives, cry for the scalps of individuals because they do not like their views.”³⁵ The dangers of such an approach to prosecution are evidence. Prosecutors should be vehicles for obtaining justice, not tools of revenge and domination.

III. DÉJÀ VU ALL OVER AGAIN:³⁶ THE 2017 FIRING OF SALLY YATES AND THE POLITICIZATION OF PROSECUTORS

More recently, the Trump administration has tried its (heavy) hand at politicizing the Department of Justice. On January 30, 2017, the newly inaugurated President Trump issued Executive Order 13769, imposing an impermanent ban on travelers from eight predominantly Muslim countries.³⁷ Acting Attorney General Sally Yates subsequently issued a letter to members of the Justice Department declaring that she would not defend or enforce this executive order.³⁸ Yates, whose position as Attorney General would be overtaken within the week,³⁹ had publicly defied the President. In response, President Trump fired her mere hours later.⁴⁰

While Yates was entirely within her authority to decline enforcement of the travel ban,⁴¹ her letter was curious. Rather than addressing just the legality of the

³² *Id.* at 28 (describing Robert Jackson’s speech to the U.S. Attorneys as to what their role should be).

³³ JOAN E. JACOBY, *THE AMERICAN PROSECUTOR: A SEARCH FOR IDENTITY* 20 (Lexington Books) (1980) (“[T]he American federal prosecutor at first enjoyed almost unlimited independence.”).

³⁴ Jackson, *supra* note 12, at 4.

³⁵ *Id.*

³⁶ YOGI BERRA, *THE YOGI BOOK* 45 (Workman Publishing Company 2010) (1998).

³⁷ Carrie Johnson & Jessica Taylor, *Trump Fires Acting Attorney General for Refusing To Defend Immigration Order*, NPR (Jan. 30, 2017),

<https://www.npr.org/2017/01/30/512534805/justice-department-wont-defend-trumps-immigration-order>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Michael Shear, *Trump Fires Acting Attorney General Who Defied Him*, N.Y. TIMES (Jan. 30, 2017), <https://www.nytimes.com/2017/01/30/us/politics/trump-immigration-ban-memo.html>.

⁴¹ See Letter from Sally Yates, Attorney General, to Lawyers of Justice Department (Jan. 30, 2018) (“[I]t is my ultimate responsibility to determine the position of the Department of Justice in these actions.”); See also Jack Goldsmith, *Quick Thoughts on Sally Yates’ Unpersuasive Statement*, LAWFARE BLOG (Jan. 30, 2017), <https://www.lawfareblog.com/quick-thoughts-sally-yates-unpersuasive-statement>, (“The Attorney General . . . has the clear authority to determine which

executive order, she went further. Yates explained that the order opposed the Department's "best view of the law" and contradicted her institutional obligation "to always seek justice and stand for what is right."⁴² Undoubtedly, the President's travel ban was contentious. It seemed to undermine fundamental American values by condoning religious discrimination under the guise of public safety. But Yates, as acting Attorney General, had been tasked with determining whether the executive order was "on its face, lawful, and properly drafted."⁴³ Did Yates overstep her duties when she commented on notions of justice and the "best view of the law"?

To begin, Yates was wholly aware of the President's sentiments behind the travel ban. During Trump's presidential election campaign, he advocated for a "Muslim ban," saying he would enact such a ban if he were elected.⁴⁴ Once elected, though, President Trump strayed from that language and employed language of geography instead of religion,⁴⁵ so the existence of discrimination was debated.⁴⁶ But given the previously apparent discriminatory animus, Yates could have easily refused enforcement of the executive order by citing its potential unconstitutionality.⁴⁷ However, Yates declined to make the legal argument that the executive order was unlawful because of "invidious discrimination."⁴⁸ Instead, she invoked morality in her position as Attorney General, suggesting that this executive order contradicted "justice" and "what is right."⁴⁹

presidential orders the Department will defend in court, and how, although her determinations are subject to presidential reversal.").

⁴² Letter from Sally Yates, Attorney General, to Lawyers of Justice Department (Jan. 30, 2018).

⁴³ See Johnson & Taylor, *supra* note 37.

⁴⁴ Fred Barbash, *Muslim ban language suddenly disappears from Trump campaign website after Spicer questioned*, WASH. POST (May 9, 2017), https://www.washingtonpost.com/news/morning-mix/wp/2017/05/09/trumps-preventing-muslim-immigration-vow-disappears-from-campaign-website-after-spicer-questioned/?utm_term=.9d0668df495f

⁴⁵ Trump's executive order stopped travelers from Iraq, Iran, Syria, Yemen, Sudan, Libya, Somalia, and Syria. Johnson & Taylor, *supra* note 37.

⁴⁶ At least 76 amicus briefs were filed in support and against Trump's travel ban order. See Joshua Matz, *A Rough Guide to Amicus Briefs In the Travel Ban Cases*, TAKE CARE, (Apr. 24, 2017), <https://takecareblog.com/blog/a-rough-guide-to-amicus-briefs-in-the-travel-ban-cases>. A key focus of many of those briefs was on whether the Order, given statements by Trump as a candidate, was more of an attack on Muslims than designed to focus on security threats by the listed nations.

⁴⁷ There was a strong argument at the time that the executive order would be unconstitutional if it were motivated by discrimination on the basis of religion. However, in the recent decision in *Trump v. Hawaii*, the Supreme Court determined, on a 5-4 vote, that subsequent versions of the travel ban were permissible. 138 S. Ct. 2392 (2018). It is unclear, though, whether this initial executive order issued by President Trump would have been found constitutional.

⁴⁸ W. Bradley Wendel, *Government Lawyers in the Trump Administration*, 69 HASTINGS L. J. 275, 349-50 (2017).

⁴⁹ Quinta Jurecic, *Acting Attorney General Sally Yates Refuses to Enforce Trump Refugee EO*, Lawfare Blog (Jan. 30, 2017), <https://www.lawfareblog.com/acting-attorney-general-sally-yates-refuses-enforce-trump-refugee-EO>.

Yates was criticized as being too political and for taking a position in conflict with her duty of neutrality.⁵⁰ Indeed, it is the election process which speaks to the ideas of right and wrong within American society. On the other hand, a prosecutor need not and should not separate all notions of fairness and justice from her decisions as Acting Attorney General. The line between formal ethics and personal integrity has never been well-defined.⁵¹ What is known, however, is that it is better for a prosecutor to be guided by ethical standards than political whims.⁵² Here, Yates had to “consider both the traditional deference of courts to the Executive in matters pertaining to immigration and border security, as well as the constitutional principle that disfavored groups should not be singled out for harsh treatment on the basis of religion or nationality.”⁵³ In her best judgment, Yates determined that, on balance, the travel ban could not be enforced because it was inconsistent with important values.

Furthermore, Yates’s letter was scrutinized for finding a gap—though the substantiality was ambiguous—between the “best view of the law” and the lawfulness of the executive order.⁵⁴ But that finding was unnecessary and seemingly arbitrary.

⁵⁰ As one commentator described:

Ultimately, however, in the American political system, the decision as to which governmental action will benefit “the people” or “the public interest” is vested in elected officials or those to whom they have delegated their decision-making authority. Once that policy decision has been made, the government lawyer may ethically defend it The government lawyer, after all, is not employed by the federal government to represent personal interests, and it is virtually impossible for anyone to determine where a neutral view of the ‘public interest’ ends and one’s own personal opinions begin.

Catherine Lancot, *The Duty of Zealous Advocacy and the Ethics of the Federal Government Lawyer: The Three Hardest Questions*, 64 S. CAL. L. REV. 951, 1015 (1991).

⁵¹ Nelson Lund, Professor of Law at George Mason University, opined on the practical decision-making process:

The genuinely difficult questions about right and wrong that [United States attorneys] are most likely to face in the course of their work are inevitably going to be resolved, not by professional ethics, but by personal standards of integrity and by implicit or explicit bargaining with their appointing official, the President.

Nelson Lund, *The President as Client and the Ethics of the President’s Lawyers*, 61 LAW & CONTEMP. PROBS. 65, 80–81 (1998).

⁵² Courts have noted the importance of a U.S. Attorney’s role in abiding by ethical standards in the pursuit of justice:

The United States Attorney is the representative . . . of a sovereignty whose obligation is to govern impartially . . . and whose interest, therefore in a criminal prosecution is not that it shall win a case, but that justice shall be done. . . . It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

Berger v. United States, 295 U.S. 78, 88 (1935).

⁵³ Wendel, *supra* note 48, at 351.

⁵⁴ Jurecic, *supra* note 49.

[A] government attorney . . . does not have an obligation to seek the *best* view of the law unless her client asks for this advice. Instead, the attorney's ethical responsibility is to ensure that a proposed course of action is legally permissible. There may be a gap between something that is permitted and the best view of the law.⁵⁵

Perhaps it is specifically at the time of changing administrations, when political sentiments are at their height, that prosecutors must distance themselves from the political arena. If they fail to do so, then the fervor of political change is likely to eclipse the longer-term commitments to principles of law and justice.

IV. SELF-POLITICIZATION: HOW THE INTERNET HAS REVEALED THE POLITICIZATION OF PROSECUTORS

One of the greatest dangers of our time is that with the increased polarization of politics, prosecutors have boldly and publicly broadcast their personal political views without due consideration of how those views will be viewed by all of the constituents they are sworn to serve. Some prosecutors seem not to realize that their on-line postings can dramatically undermine their claim that they are fair and independent advocates in the criminal justice system. One of the most extreme examples happened recently with a gang prosecutor in Southern California.

A. *Michael Selyem*

Michael Selyem was born in New Jersey.⁵⁶ After spending some time in Maryland,⁵⁷ Selyem attended California State University, Fullerton, for his undergraduate education.⁵⁸ He then attended UCLA School of Law from 2001-2004.⁵⁹ In August 2006, he joined the Central Hardcore Gang Unit for the County of San Bernardino,⁶⁰ a unit dealing exclusively with the prosecution of gang-related crimes in the area.⁶¹ The unit's website touts its office as being "hard on gang crime" and striving to "keep our communities safe."⁶²

⁵⁵ *Id.* at 350.

⁵⁶ Tom Cleary, *Michael Selyem: 5 Fast Facts You Need to Know*, HEAVY (Jul. 9, 2018), <https://heavy.com/news/2018/07/michael-selyem>.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Michael Selyem, LINKEDIN <https://www.linkedin.com/in/michael-selyem-0b70aa113> (last visited July 12, 2018).

⁶⁰ *Id.*

⁶¹ *Gang Unit*, SAN BERNARDINO COUNTY DISTRICT ATTORNEY, <http://www.sbcountyda.org/ProsecutingCriminals/ProsecutingCriminals/GangUnit.aspx> (last visited July 12, 2018).

⁶² *Id.*

In early July 2018, several of Selyem's social media posts were uncovered and criticized.⁶³ A staunch supporter of President Donald Trump,⁶⁴ Selyem made derogatory and discriminatory comments targeting U.S. Representative Maxine Waters and former First Lady Michelle Obama.⁶⁵ Additionally, he commented that the victim of a police shooting "got exactly what he deserved."⁶⁶ He supported the statement by writing, "[i]f the cops give you a directive then follow it. Excellent police work sir!"⁶⁷

While the posts have garnered immense attention from the media, the legal community has also shuddered. Selyem has jeopardized the credibility of his office and the perception of lawyers in public service. Additionally, the validity of his prior cases is now in question.⁶⁸ Did he bring these invidious biases into his prosecution of women, immigrants, liberals, and other groups he has deeply criticized? As District Attorney Mike Ramos commented, "There could be motions, motions in limine before trial about some of the comments . . . racial biases, etc., because of the comments that were made."⁶⁹ Consequently, the San Bernardino County District Attorney's Office reassigned his caseload and initiated an investigation.⁷⁰ Selyem was placed on administrative leave until the investigation—and potential disciplinary action—concluded.⁷¹

A search of Michael Selyem on the California State Bar's website shows no disciplinary record. In fact, one of Selyem's references on LinkedIn actually posted a remark touting him as "[v]ery disciplined and [an] ethical member of the District

⁶³ For pictures of the social media posts from Selyem's social media accounts, *see infra* Appendices A–E.

⁶⁴ Selyem's history of social media posts suggests a strong affinity for Donald Trump as well as a profound dislike for "liberal[s]" and "[D]emocrats." Jessica Chasmar, *Calif. prosecutor wonders why 'ghetto' Maxine Waters hasn't been shot yet*, WASH. TIMES (July 9, 2018), <https://www.washingtontimes.com/news/2018/jul/9/michael-selyem-san-bernardino-prosecutor-wonders-w>; *see also infra* Appendices B–E.

⁶⁵ *See* Eli Rosenberg, *Prosecutor who reportedly suggested Maxine Waters be shot is placed on leave*, WASH. POST (July 9, 2018), https://www.washingtonpost.com/news/politics/wp/2018/07/09/prosecutor-who-said-on-social-media-that-maxine-waters-should-be-shot-is-placed-on-leave/?utm_term=.5a952fa59e6f; *See also infra* Appendices A and E.

⁶⁶ *See infra* Appendix C.

⁶⁷ *Id.*

⁶⁸ Joe Nelson, *Public Defender Challenging Credibility of Suspended San Bernadino County Gang Prosecutor and DA's Office*, THE SUN, (Sept. 24, 2018), <https://www.sbsun.com/2018/09/24/public-defender-challenging-credibility-of-racist-san-bernardino-county-gang-prosecutor-and-das-office/>

⁶⁹ Rosenberg, *supra* note 65.

⁷⁰ Matt Stevens, *California Prosecutor Put on Leave After Negative Comments About Maxine Waters*, N.Y. TIMES (July 9, 2018), <https://www.nytimes.com/2018/07/09/us/california-district-attorney-maxine-waters.html> ("An assistant district attorney has been assigned to examine cases Mr. Selyem handled in the gang unit.").

⁷¹ *Id.*

Attorneys' Office in San Bernardino County."⁷² Of course, it is Selyem's ethics as a professional which is under immense scrutiny in recent weeks.⁷³

Selyem's posts reflect exactly why the politicization of prosecutors is a particularly dangerous phenomenon, especially in these times. Selyem praises police officers for shooting suspects, automatically assuming that the officers were in the right. Selyem openly displays the prejudice by which he will make his decisions. He dehumanizes others and mocks those who might have a different viewpoint. His rhetoric is virulent and undisguised. Professor Gershman warned against discriminatory charging and overzealous prosecutions.⁷⁴

Prosecutors have First Amendment rights,⁷⁵ but they also have extraordinary power and responsibility. By espousing racist, xenophobic and sexist views, Deputy District Attorney Selyem provides a horrifying example of why the politicization of prosecutors is insidious and dangerous. When the Supreme Court decided cases like *United States v. Armstrong*⁷⁶ and *United States v. Wayte*,⁷⁷ it did so assuming prosecutors would act in good faith in their charging decisions.

Improper social media posts, like those by Selyem, undermine the presumption of good faith that the Supreme Court has afforded to prosecutors for years. Thus, it is a process that not only poses problems for defendants, but undermines the credibility of prosecutors in general.

⁷² Michael Selyem, LINKEDIN, <https://www.linkedin.com/in/michael-selyem-0b70aa113> (last visited July 12, 2018).

⁷³ See, e.g., Matt Stevens, *California Prosecutor Put on Leave After Negative Comments About Maxine Waters*, N.Y. TIMES (July 9, 2018), <https://www.nytimes.com/2018/07/09/us/california-district-attorney-maxine-waters.html>; Paul LeBlanc, *California Prosecutor Wonders Why 'Ghetto' Maxine Waters Hasn't Been Shot*, NEWSWEEK (July 8, 2018), <http://www.newsweek.com/san-bernardino-prosecutor-maxine-waters-ghetto-michael-selyem-posts-1013216>.

⁷⁴ Gershman, *supra* note 29 at 25.

⁷⁵ See *Garcetti v. Ceballos*, 547 U.S. 410, 419 (2006) ("The Court's [public] employee-speech jurisprudence protects, of course, the constitutional rights of public employees. Yet the First Amendment interests are at stake beyond the individual speaker."). The United States Attorneys' Manual also has a section entitled "Personal Use of Social Media." One of the standards provides, "Department employees should not make comments that can be perceived as showing prejudice based on race, gender, sexual orientation, or any other protected bases." OFFICE OF THE UNITED STATES ATTORNEYS, U.S. DEP'T OF JUSTICE, JUSTICE MANUAL tit. 1-9.000, available at www.justice.gov/usam/usam-1-9000-special-masters (Apr. 2018).

⁷⁶ *United States v. Armstrong*, 517 U.S. 456, 464, 469-70 (1996) (in rejecting claim of selective prosecution, Supreme Court noted that the Government declined to prosecute similarly situated defendants of other races because the Court was willing to afford "presumption of regularity" in support of prosecutorial decisions).

⁷⁷ See *Wayte v. United States*, 470 U.S. 598, 607-08 (1985) (Court afforded great deference to prosecutorial discretion based upon assumption that that prosecutors act in accordance with ethical and professional standards).

Professor Gershman was wary of the true motivations for prosecutors.⁷⁸ With the increased politicization of prosecutors, we understand now why his concerns were so well founded. As he aptly put it, “We want good prosecutors; we need good prosecutors. Despite internal and external controls, the most effective control over a prosecutor’s abuse of power may lie in a prosecutor’s own personal integrity, his or her commitment to the cause of justice, and in a prosecutorial culture that prizes justice and fair play over winning a case.”⁷⁹

We are now in a world of extreme politicization of prosecutors and the results are predictable. Only someone who thought that the ends justified the means could have written the hate-filled messages posted by gang prosecutor Selyem. He certainly is not the only prosecutor who thinks that way, but the increased politicization of prosecutors has made him reveal his bias in ways that have not occurred since before the 1960s.⁸⁰

B. Jan Mann & Salvador Perricone

Michael Selyem is not the only prosecutor to use social media to express his political views. In fact, prosecutors have gone one step further. They have turned to social media to express their views about pending cases and investigations.

Jan Mann and Salvador “Sal” Perricone served in the United States Attorney’s Office in New Orleans, Louisiana.⁸¹ Mann was head of the criminal division; Perricone developed a reputation as “one of New Orleans’ most feared prosecutors.”⁸² In 2012, it was discovered that they had used various pseudonyms and social media accounts to comment on ongoing cases and political issues.⁸³

The prosecutorial misconduct was brought to light when a former federal prosecutor, Billy Gibbens, recognized a familiar writing style in an online blog.⁸⁴ In an investigative report, the Department of Justice’s Office of Professional

⁷⁸ Gershman, *supra* note 1, at 1208-09.

⁷⁹ *Id.* at 1209.

⁸⁰ See, e.g., *Moseley v. State*, 73 So. 791, 791 (Miss. 1917) (district attorney told the jury that the outcome of the case was “just a question of whether or not you believe this negro or [a white man].”); *Simmons v. State*, 71 So. 979, 979 (Ala. Ct. App. 1916) (appellate court reversed because of grotesque racial politics expressed by prosecutor).

⁸¹ Timothy M. Phelps, *His Own Words Help Bring Down New Orleans Prosecutor*, L.A. TIMES (Sep. 10, 2014), <http://www.latimes.com/nation/la-na-c1-new-orleans-legal-scandal-20140910-story.html#>.

⁸² *Id.*

⁸³ DEPARTMENT OF JUSTICE, OFFICE OF PROF’L RESPONSIBILITY, INVESTIGATION OF ALLEGATIONS OF PROFESSIONAL MISCONDUCT AGAINST FORMER ASSISTANT UNITED STATES ATTORNEYS SALVADOR PERRICONE AND JAN MANN, UNITED STATES ATTORNEY’S OFFICE FOR THE EASTERN DISTRICT OF LOUISIANA (2013) [hereinafter INVESTIGATION OF ALLEGATIONS OF PROFESSIONAL MISCONDUCT], available at <https://www.justice.gov/opr/file/884691/download>.

⁸⁴ Phelps, *supra* note 81.

Responsibility found prosecutorial misconduct resulting from violations of standards set forth by the Office of Professional Responsibility.⁸⁵ Specifically, their posts violated the Code of Federal Regulations,⁸⁶ the U.S. Attorneys' Manual,⁸⁷ the Local Criminal Rules of the U.S. Eastern District of Louisiana,⁸⁸ and the Louisiana Rules of Professional Conduct.⁸⁹ Mann and Perricone deviated significantly from these guidelines by criticizing litigants and judges, as well as forecasting outcomes of ongoing cases.

Mann and Perricone's egregious posts established "a prejudicial, poisonous atmosphere . . . to impair the fundamental constitutional right to a fair trial by an impartial jury."⁹⁰ They crossed the line from fairly, openly and honestly prosecuting cases to indulging their personal and political leanings by posting about their cases on social media.⁹¹

For these prosecutors, their work had become a cause. Accordingly, they felt that they could indulge their own personal and political leanings by using social media to influence public sentiment regarding the case.

V. FUTURE CHALLENGES

Prosecutors will continue to face efforts to politicize their works. For example, the Department of Justice recently requested that U.S. Attorney's Offices throughout

⁸⁵ See INVESTIGATION OF ALLEGATIONS OF PROFESSIONAL MISCONDUCT, *supra* note 83, at 45–46 (summarizing the process for identifying professional misconduct by an attorney).

⁸⁶ 28 C.F.R. § 50.2 (West 2018). ("[N]or shall personnel of the Department furnish any statement or information, which could reasonably be expected to be disseminated by means of public communication, if such a statement or information may reasonably be expected to influence the outcome of a pending or future trial." Further, the regulations impose restrictions on permissible communications, generally limiting them to "incontrovertible, factual matters").

⁸⁷ INVESTIGATION OF ALLEGATIONS OF PROFESSIONAL MISCONDUCT, *supra* note 83, at 47–48. (At the time of the investigation, § 1-7.550 contained several provisions which are seen today in § 1-7.610 of the U.S. Attorneys' Manual. These provisions prohibit members of the Department of Justice from disclosing "[o]bservations about a defendant's or party's character" or opining about a defendant's guilt); OFFICE OF THE U.S. ATTORNEYS, U.S. DEP'T OF JUSTICE, JUSTICE MANUAL tit. 1, available at www.justice.gov/usam/usam-1-9000-special-masters (Apr. 2018).

⁸⁸ INVESTIGATION OF ALLEGATIONS OF PROFESSIONAL MISCONDUCT, *supra* note 83, at 48–49. ("The Local Criminal Rules of the U.S. District Court for the Eastern District of Louisiana . . . restrict attorneys from making extrajudicial statements relating to pending cases or active investigations.").

⁸⁹ INVESTIGATION OF ALLEGATIONS OF PROFESSIONAL MISCONDUCT, *supra* note 83, at 50–54.

⁹⁰ *United States v. Bowen*, 969 F. Supp. 2d 546, 620 (E.D. La. 2013); See also Brielynne Neumann, *The 21st Century Online Carnival Atmosphere: Ethical Issues Raised by Attorneys' Usage of Social Media*, 27 GEO. J. LEGAL ETHICS 747, 749–51 (2014).

⁹¹ Ben Brumfield, *New Orleans Officers Convicted in Post-Katrina Shooting Get New Trial*, CNN (Aug. 19, 2015), <https://www.cnn.com/2015/08/19/us/new-orleans-trial-danziger-bridge-police-shootings/index.html> (as a result of their posts, five New Orleans police officers received a new trial after being convicted of conspiracy to cover up their killing of several unarmed civilians).

the country designate Assistant United States Attorneys who would help review, as part of the vetting process, the writings of Supreme Court nominee Brett Kavanaugh.⁹² This request raised questions about whether such assistance would insert prosecutors into the political process of obtaining the confirmation of a Supreme Court nominee, especially given the political split in views regarding this nominee.

There are other scenarios that might also arise that could immerse prosecutors in ongoing politics. For example, prosecutors may be ordered to attend a presentation by the Attorney General on a controversial subject,⁹³ such as increasing the prosecution of certain types of crimes like minor immigration violations. What rules should apply in such situations?

The U.S. Attorney's Manual provides minimal guidance about the role prosecutors should play in political matters. For example, Section 1-4.410 prohibits employees from taking overt political actions such as making "a political contribution to their employer or employing authority."⁹⁴ However, the Manual does not otherwise guide prosecutors in navigating their duties in a highly-charged political arena. Rather, it defers to the limitations on prosecutors under the Hatch Act, "which generally prohibits Department employees from engaging in partisan political activity while on duty, in a federal facility or using federal property."⁹⁵ The focus on these restrictions is on limiting prosecutors from taking active roles in political campaigns or posting partisan materials online. It does not guide prosecutors in the day-to-day political quandaries that may arise.⁹⁶ It certainly does

⁹² See Katie Benner, *Rosenstein Asks Prosecutors to Help With Kavanaugh Papers in Unusual Request*, N.Y. TIMES (July 11, 2018), <https://www.nytimes.com/2018/07/11/us/politics/rosenstein-kavanaugh-document-review-prosecutors.html> (President Donald Trump nominated D.C. Circuit Judge Brett Kavanaugh to fill the seat of the retiring Justice Anthony Kennedy. In an atypical move, the Justice Department has enlisted federal prosecutors to assist in reviewing the "long history of legal opinions" from Judge Kavanaugh. Christopher Hunter, a former F.B.I. agent and federal prosecutor, expressed disapproval of the decision: "It's flat-out wrong to have career federal prosecutors engaged in a political process like the vetting of a Supreme Court nominee. It takes them away from the mission they're supposed to be fulfilling, which is effective criminal justice enforcement").

⁹³ See, e.g., *Attorney General Jeff Sessions Talks Opioid Crisis in Louisville Speech*, WKYT (Jan. 30, 2018), <http://www.wkyt.com/content/news/Attorney-General-Jeff-Sessions-to-speak-in-Louisville-471747304.html> (setting forth how U.S. Attorneys must comply with new policies on addressing opioid crisis); Letter from Jeff Sessions, Attorney General, to Federal Prosecutors along the southwest border (Apr. 6, 2018) (on file with Department of Justice) (Memorandum ordering federal prosecutors to "adopt . . . a zero-tolerance policy" for immigration-related offenses).

⁹⁴ OFFICE OF THE U.S. ATTORNEYS, U.S. DEP'T OF JUSTICE, U.S. JUSTICE MANUAL tit. 1, available at www.justice.gov/usam/usam-1-9000-special-masters (Apr. 2018).

⁹⁵ 5 U.S.C. §§ 7323–7324 (2018); U.S. DEP'T OF JUSTICE, DEPARTMENTAL ETHICS OFFICE, POLITICAL ACTIVITIES, <https://www.justice.gov/jmd/political-activities> (last visited Aug. 11, 2018).

⁹⁶ *Id.*

not provide guidance for prosecutors who, by the very nature of their assignments, must navigate the political arena.⁹⁷

This article cannot anticipate all the situations in which prosecutors are going to be pressured to bend to political will, but it is worth considering what test prosecutors should use to decide whether a particular action deviates too much from the prosecutor's role as a "Minister of Justice."⁹⁸

One approach that may work would be to create a specific rule to identify the role of prosecutors in a manner which makes clear that prosecutors should act independently of partisan politics. Their duty, as reflected in their oath, is to uphold the Constitution.⁹⁹ However, blanket statements about a prosecutor's role have proved to be insufficient to guide prosecutorial conduct in specific situations. Thus, just as there are rules regarding conflicts of interest for counsel, as well as specific examples given in commentaries and cases, a similar approach should be taken to prevent the politicization of prosecutors. Here is one approach for a specific ethical rule to preserve the independence of prosecutors:

Proposed Rule:

Prosecutors have a duty to remain independent and objective in their work.
A prosecutor must preserve his or her independence by:

⁹⁷ Rebecca R. Ruiz & Mark Landler, *Robert Mueller, Former F.B.I. Director, Is Named Special Counsel for Russia Investigation*, N.Y. TIMES (May 17, 2017), <https://www.nytimes.com/2017/05/17/us/politics/robert-mueller-special-counsel-russia-investigation.html>. Although this article addresses primarily the role of federal prosecutors, state prosecutors face similar challenges. (Consider, for example, former FBI Director Robert Mueller's appointment as special counsel to investigate Russian involvement in the 2016 U.S. election. The investigation of the presidential election process naturally evokes politics in almost every decision, thus putting Mueller under immense political pressure throughout the investigation). See, e.g., Ryan Martin, Kaitlin Lange & Tony Cook, *Special prosecutor appointed for Curtis Hill Investigation—and It's Not His First Rodeo*, INDY STAR (July 24, 2018), https://www.indystar.com/story/news/politics/2018/07/24/curtis-hill-indiana-attorney-general-special-prosecutor-appointed/826870002/?utm_source=google&utm_medium=amp&utm_campaign=speakable (special prosecutor appointed by Indiana superior court judge to investigate state's Attorney General Curtis Hill. Hill, a Republican, has been accused of sexually inappropriate conduct. The investigation has divided heavily along political lines, as one Republican attorney established a fund to defend the Attorney General).

⁹⁸ MODEL RULES OF PROF'L CONDUCT R. 3.8 cmt. 1; Accord Abby Dennis, *Reining in the Minister of Justice: Prosecutorial Oversight and the Superseder Power*, 57 DUKE L.J. 131, 138 (2007) (quoting Robert H. Jackson, Attorney Gen. of the U.S., *The Federal Prosecutor*, Address at the Second Annual Conference of United States Attorneys (Apr. 1, 1940)); Viereck v. United States, 318 U.S. 236, 248 (1943); Berger v. United States, 295 U.S. 78, 88–89 (1935).

⁹⁹ 5 U.S.C. § 3331 (2018).

1. Pursuing only those cases that have an independent, nonpolitical basis for the charges;¹⁰⁰
2. Engaging only in assignments that relate to the reform or enforcement of the criminal laws;
3. Making no public statements supporting or attacking individuals because of their political beliefs;¹⁰¹ and
4. Certifying at the time charges are brought that they have not been pursued for political purposes.¹⁰²

There are likely to be objections to these rules, but it is time to start a serious conversation about the increasing politicization of prosecutors. For those prosecutors who want to focus on the protection of the community, engaging in politics is, at minimum, a distraction. For others, it can be a grave threat to prosecutorial autonomy and the public's confidence in their work.

VI. CONCLUSION

“My job as a prosecutor is to do justice.”¹⁰³

Bennett Gershman's brilliance has not been that he knows all the answers (forgive me, Bennett). Rather, he is willing to speak out when there is a problem. He makes us think about the problems confronting us and refuses to accept that nothing can be done about them.

The politicization of prosecutors is not a transient problem. For years, prosecutors have actually used their jobs as stepping stones to higher office.¹⁰⁴ Moreover, prosecutors using their offices for political purposes is also not a uniquely

¹⁰⁰ See ABA Standards for Criminal Justice, Prosecution Function Standard 3-1.6(a). (“A prosecutor should not use other improper considerations, such as partisan or political or personal considerations, in exercising prosecutorial discretion”).

¹⁰¹ See Joel Cohen, *When Prosecutors Take Liberties With the First Amendment*, Stroock & Stroock & Lavan LLP (Feb. 14, 2013), <https://www.stroock.com/siteFiles/Pub1297.pdf> (While prosecutors retain First Amendment rights, there may be limitations on their speech because of their unique role. Often times, courts will balance the interests of the attorney with those of the government in determining whether the speech is permissible); See also Chase Stevens, *First Amendment Rights of a Prosecutor*, WAKE FOREST L. REV. ONLINE (Oct. 31, 2017), <http://wakeforestlawreview.com/2017/10/first-amendment-rights-of-a-prosecutor>.

¹⁰² In order to impress upon prosecutors their duty not to bring charges on a political basis, and to convey to the public that such a responsibility has been taken seriously, prosecutors should personally certify that they have complied with their ethical duty not to pursue a criminal action for political purposes.

¹⁰³ See Robin Abcarian, *Sotomayor Hearings: The Perry Mason Influence*, L.A. Times (July 15, 2009) (Justice Sonia Sotomayor, quoting Perry Mason, at her Confirmation Hearing).

¹⁰⁴ See Wendy Sawyer & Alex Clark, *New Data: The Rise of the “Prosecutor Politician,”* Prison Policy Initiative, available at: <https://www.prisonpolicy.org/blog/2017/07/13/prosecutors/>.

American problem.¹⁰⁵ However, it is time that the issue be taken seriously in order to preserve the credibility of the position. When politicians seek to influence prosecutors for political purposes, it undermines public confidence in the office. When prosecutors use their work as a platform to take political positions, it also undermines public confidence in their work.

For these reasons, it is time to take steps to insulate prosecutors from the whims of politics. While it may be impossible to isolate prosecutors from all politics—especially given that they are appointed positions that require funding from politicians—we can give them more independence by creating practice and ethical standards that will prevent them from being embroiled in the most egregious political battles. There are three fundamental steps in doing so: First, recognize the problem of politicians trying to seduce or pummel prosecutors into helping their political efforts. Second, set ethical boundaries on prosecutors' political activities and vigorously enforce the standards set forth in the Hatch Act.¹⁰⁶ Third, educate prosecutors and the public about the need for prosecutors to stay out of politics, including in their speeches and postings on social media.¹⁰⁷

If prosecutors do not take a stand, they will be swallowed by the morass. Politics is a swamp. The temples of justice should not be.

¹⁰⁵ See Scott Horton, *When is a Prosecution Political?*, THE HARPER'S BLOG (Feb. 7, 2018), <https://harpers.org/blog/2008/02/when-is-a-prosecution-political>.

¹⁰⁶ 5 C.F.R. § 734.101-702 (2018).

¹⁰⁷ For standards that apply to federal prosecutors, see <https://www.justice.gov/jm/jm-1-7000-media-relations>

Appendix A



Appendix B



The image is a screenshot of a Facebook mobile app interface. At the top, the status bar shows signal, Wi-Fi, and battery icons, with a battery level of 52% and the time 8:04 PM. Below this is a blue navigation bar with a search bar, a messages icon, and a profile icon. Underneath is a row of icons for various app features. The main content area shows a post from 'Breitbart' (with a 'B' logo) posted '5 hrs' ago. The post text reads: 'BUDWEISER SUPER BOWL AD: UGLY AMERICANS HARASS HERO IMMIGRANT... ...'YOU'RE NOT WANTED HERE!'. Below the text is a video player with a thumbnail showing Budweiser cans and the title 'Budweiser Debuts Pro-Immigration Super Bowl Ad'. The video has 8.5k reactions (represented by angry, like, and laugh emojis) and 8.6K comments and 3.4K shares. At the bottom of the post are buttons for 'Like', 'Comment', and 'Share'. Below the post is a comment from 'Michael Selyem' with a profile picture of a man in a suit. The comment text is: 'I am all for white males immigrating here legally and starting a business. It is the terrorist assholes sneaking in here wanting to kill me an my family that I am opposed to. I cannot believe how shallow democrats are. They must really think people are stupid. I guess that is evident because they actually thought Hilary Clinton could win a presidential election...TWICE!!! LMFAO!!!'.

Breitbart
5 hrs · 🌐

BUDWEISER SUPER BOWL AD: UGLY AMERICANS HARASS HERO IMMIGRANT...
... 'YOU'RE NOT WANTED HERE!'

WATCH:

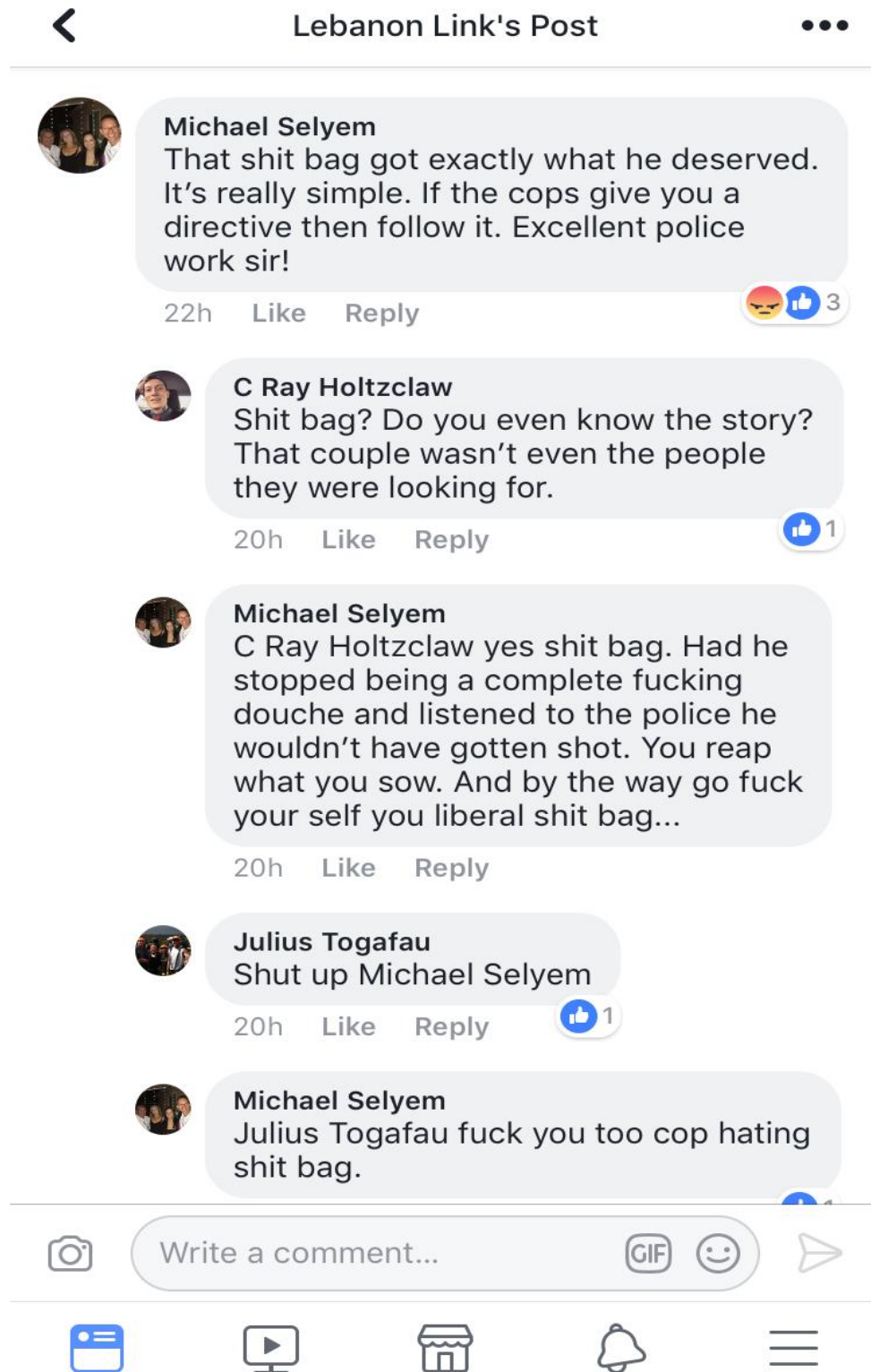
 Budweiser Debuts Pro-Immigration Super Bowl Ad

👍👎😂 8.5k 8.6K Comments 3.4K Shares

👍 Like 💬 Comment ➦ Share

 Michael Selyem
I am all for white males immigrating here legally and starting a business. It is the terrorist assholes sneaking in here wanting to kill me an my family that I am opposed to. I cannot believe how shallow democrats are. They must really think people are stupid. I guess that is evident because they actually thought Hilary Clinton could win a presidential election...TWICE!!! LMFAO!!!

Appendix C



Appendix D



Appendix E

